SENATE BILL No. 54

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-1.1; IC 6-3.5-9.

Synopsis: Phaseout of property tax on inventory. Allows a county fiscal body to phase out the property tax on inventory by allowing assessed value deductions in five increasing gradations over a ten year period. Reduces the property tax levies of all taxing units having assessed value in an adopting county. Allows the county fiscal body to adopt an ordinance imposing an income tax to recover the net property tax revenue lost by the phaseout of the property tax on inventory. Provides that the income tax will increase over the ten year period to recover the revenue lost by each increase of the assessed value deduction. Requires the state to distribute revenue to income tax adopting counties to replace revenue lost through property tax replacement credits. Makes an appropriation.

Effective: July 1, 2002.

Ford

November 20, 2001, read first time and referred to Committee on Rules and Legislative Procedure.

Introduced

Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

SENATE BILL No. 54

A BILL FOR AN ACT to amend the Indiana Code concerning taxation ..

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 6-1.1-12.2 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]:

Chapter 12.2. Inventory Tax Phaseout

Sec. 1. As used in this chapter, "inventory" has the meaning set forth in IC 6-1.1-3-11.

Sec. 2. The county council of a county may adopt an ordinance to phase out the property tax on inventory imposed under IC 6-1.1-3. If the county council adopts an ordinance under this chapter to phase out the property tax on inventory, the county council may adopt an ordinance under IC 6-3.5-9 to impose an income tax to replace revenue lost by the phaseout of the property tax on inventory.

Sec. 3. (a) The property tax assessment against inventory located in the county may be phased out over a ten (10) year period in five (5) gradations. To phase out the property tax on inventory, business owners are allowed a deduction from the assessed value

of the inventory equal to a percentage of assessed valuation specified in subsection (b). The deduction percentage is increased in five (5) gradations over the ten (10) year period. The deduction allowed in each year is prescribed in subsection (b).

(b) The first year the deduction may be claimed is for property taxes due and payable on inventory in the year following the year in which the ordinance is adopted under this section. The percentage used to determine the amount of the deduction allowed under subsection (a) is as follows:

YEAR OF DEDUCTION	PERCENTAGE
1st	20%
2nd	20%
3rd	40%
4th	40%
5th	60%
6th	60%
7th	80%
8th	80%
9th	80%
10th and thereafter	100%

(c) To phase out the property tax on inventory located in a county, the county council must, after January 1 but before March 1 of a year, adopt an ordinance. The ordinance must substantially state the following:

"The ________ County Council phases out the property tax on inventory located in ________ County. The business owners of ________ County may claim a deduction from the assessed value of inventory. The amount of the deduction will increase in five (5) gradations over the next ten (10) years under IC 6-1.1-12.2. This deduction takes effect March 1 of this year for property taxes payable beginning next year.".

(d) An ordinance adopted under this section takes effect March 1 of the year in which the ordinance is adopted.

(e) The auditor of a county shall record all votes taken on ordinances presented for a vote under the authority of this section and immediately send a certified copy of the results to the department by certified mail.

Sec. 4. (a) The county inventory property tax deduction adopted by a county council under this chapter remains in effect until repealed.

(b) Except as provided in subsection (e), the county council may repeal the county inventory tax deduction by adopting an

ordinance to repeal the tax after January 1 but before March 1 of a year.

(c) An ordinance adopted under this section takes effect March 1 of the year in which the ordinance is adopted.

(d) The county auditor shall record all votes taken on ordinances presented for a vote under the authority of this section and immediately send a certified copy of the results to the department by certified mail.

(e) A county council may not repeal the county inventory property tax deduction until ten (10) years after the date the deduction took effect.

Sec. 5. The county auditor shall determine each taxing unit's (as defined in IC 6-3.5-9-4) share of the lost revenue attributable to the deduction in both dollars and percentage share.

Sec. 6. The general fund levy of a school corporation located in a county that adopts the inventory assessed value deduction under this chapter must be reduced by the amount of property tax revenue lost as a result of the deduction provided by this chapter. This reduction shall be made after all computations relating to state tuition support under IC 6-1.1-19 or IC 21-3-1.7.

SECTION 2. IC 6-1.1-18.5-3, AS AMENDED BY P.L.151-2001, SECTION 4, AND AS AMENDED BY P.L.198-2001, SECTION 53, IS AMENDED AND CORRECTED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 3. (a) Except as otherwise provided in this chapter *and IC 6-3.5-8-12,* a civil taxing unit that is treated as not being located in an adopting county under section 4 of this chapter may not impose an ad valorem property tax levy for an ensuing calendar year that exceeds the amount determined in ~~the last~~ STEP ~~of the following STEPS:~~ **SEVEN (or STEP EIGHT if STEP EIGHT applies):**

STEP ONE: Add the civil taxing unit's maximum permissible ad valorem property tax levy for the preceding calendar year to the part of the civil taxing unit's certified share, if any, that was used to reduce the civil taxing unit's ad valorem property tax levy under STEP EIGHT of subsection (b) **and under STEP EIGHT of this subsection, if applicable,** for that preceding calendar year.

STEP TWO: Multiply the amount determined in STEP ONE by the amount determined in *either* ~~the last~~ STEP **STEVEN (or STEP EIGHT if STEP EIGHT applies)** of section ~~2~~ *2(a)* of this chapter *for calendar years ending before January 1, 2006, or* ~~*the last*~~ *STEP* **EIGHT (or STEP NINE if STEP NINE applies)** *of section 2(b) of this chapter for calendar years beginning after*

December 31, 2005.

STEP THREE: Determine the lesser of one and fifteen hundredths (1.15) or the quotient (rounded to the nearest ten-thousandth), of the assessed value of all taxable property subject to the civil taxing unit's ad valorem property tax levy for the ensuing calendar year, divided by the assessed value of all taxable property that is subject to the civil taxing unit's ad valorem property tax levy for the ensuing calendar year and that is contained within the geographic area that was subject to the civil taxing unit's ad valorem property tax levy in the preceding calendar year.

STEP FOUR: Determine the greater of the amount determined in STEP THREE or one (1).

STEP FIVE: Multiply the amount determined in STEP TWO by the amount determined in STEP FOUR.

STEP SIX: Add the amount determined under STEP TWO to the amount determined under subsection (c).

STEP SEVEN: Determine the greater of the amount determined under STEP FIVE or the amount determined under STEP SIX.

STEP EIGHT: This STEP applies to a civil taxing unit that is located in a county that is phasing out property taxes on inventory under IC 6-1.1-12.2. Subtract the amount of property tax revenue attributable to providing the inventory tax deduction under IC 6-1.1-12.2 for the preceding calendar year with respect to the civil taxing unit from the amount determined under STEP SEVEN of this subsection.

(b) Except as otherwise provided in this chapter *and IC 6-3.5-8-12,* a civil taxing unit that is treated as being located in an adopting county under section 4 of this chapter may not impose an ad valorem property tax levy for an ensuing calendar year that exceeds the amount determined in ~~the last~~ STEP ~~of the following~~ ~~STEPS:~~ **EIGHT (or STEP NINE if STEP NINE applies):**

STEP ONE: Add the civil taxing unit's maximum permissible ad valorem property tax levy for the preceding calendar year to the part of the civil taxing unit's certified share, if any, used to reduce the civil taxing unit's ad valorem property tax levy under STEP EIGHT **and STEP NINE, if applicable,** of this subsection for that preceding calendar year.

STEP TWO: Multiply the amount determined in STEP ONE by the amount determined in *either* ~~the last~~ STEP **SEVEN (or STEP EIGHT if STEP EIGHT applies)** of section ~~2~~ *2(a)* of this chapter *for calendar years ending before January 1, 2006, or* ~~*the last*~~ *STEP* **EIGHT (or STEP NINE if STEP NINE applies)** *of* *section 2(b) of this chapter for calendar years beginning after December 31, 2005.*

STEP THREE: Determine the lesser of one and fifteen hundredths (1.15) or the quotient of the assessed value of all taxable property subject to the civil taxing unit's ad valorem property tax levy for the ensuing calendar year divided by the assessed value of all taxable property that is subject to the civil taxing unit's ad valorem property tax levy for the ensuing calendar year and that is contained within the geographic area that was subject to the civil taxing unit's ad valorem property tax levy in the preceding calendar year.

STEP FOUR: Determine the greater of the amount determined in STEP THREE or one (1).

STEP FIVE: Multiply the amount determined in STEP TWO by the amount determined in STEP FOUR.

STEP SIX: Add the amount determined under STEP TWO to the amount determined under subsection (c).

STEP SEVEN: Determine the greater of the amount determined under STEP FIVE or the amount determined under STEP SIX.

STEP EIGHT: Subtract the amount determined under STEP FIVE of subsection (e) from the amount determined under STEP SEVEN of this subsection.

STEP NINE: This STEP applies to a civil taxing unit that is located in a county that is phasing out property taxes on inventory under IC 6-1.1-12.2. Subtract the amount of property tax revenue attributable to providing the inventory tax deduction under IC 6-1.1-12.2 for the preceding calendar year with respect to the civil taxing unit from the amount determined under STEP EIGHT of this subsection.

(c) If a civil taxing unit in the immediately preceding calendar year provided an area outside its boundaries with services on a contractual basis and in the ensuing calendar year that area has been annexed by the civil taxing unit, the amount to be entered under STEP SIX of subsection (a) or STEP SIX of subsection (b), as the case may be, equals the amount paid by the annexed area during the immediately preceding calendar year for services that the civil taxing unit must provide to that area during the ensuing calendar year as a result of the annexation. In all other cases, the amount to be entered under STEP SIX of subsection (a) or STEP SIX of subsection (b), as the case may be, equals zero (0).

(d) This subsection applies only to civil taxing units located in a county having a county adjusted gross income tax rate for resident county taxpayers (as defined in IC 6-3.5-1.1-1) of one percent (1%) as of January 1 of the ensuing calendar year. For each civil taxing unit, the amount to be added to the amount determined in subsection (e), STEP FOUR, is determined using the following formula:

STEP ONE: Multiply the civil taxing unit's maximum permissible ad valorem property tax levy for the preceding calendar year by two percent (2%).

STEP TWO: For the determination year, the amount to be used as the STEP TWO amount is the amount determined in subsection (f) for the civil taxing unit. For each year following the determination year the STEP TWO amount is the lesser of:

(A) the amount determined in STEP ONE; or

(B) the amount determined in subsection (f) for the civil taxing unit.

STEP THREE: Determine the greater of:

(A) zero (0); or

(B) the civil taxing unit's certified share for the ensuing calendar year minus the greater of:

(i) the civil taxing unit's certified share for the calendar year that immediately precedes the ensuing calendar year; or

(ii) the civil taxing unit's base year certified share.

STEP FOUR: Determine the greater of:

(A) zero (0); or

(B) the amount determined in STEP TWO minus the amount determined in STEP THREE.

Add the amount determined in STEP FOUR to the amount determined in subsection (e), STEP THREE, as provided in subsection (e), STEP FOUR.

(e) For each civil taxing unit, the amount to be subtracted under subsection (b), STEP EIGHT, is determined using the following formula:

STEP ONE: Determine the lesser of the civil taxing unit's base year certified share for the ensuing calendar year, as determined under section 5 of this chapter, or the civil taxing unit's certified share for the ensuing calendar year.

STEP TWO: Determine the greater of:

(A) zero (0); or

(B) the remainder of:

(i) the amount of federal revenue sharing money that was received by the civil taxing unit in 1985; minus

(ii) the amount of federal revenue sharing money that will be received by the civil taxing unit in the year preceding the ensuing calendar year.

STEP THREE: Determine the lesser of:

(A) the amount determined in STEP TWO; or

(B) the amount determined in subsection (f) for the civil taxing unit.

STEP FOUR: Add the amount determined in subsection (d), STEP FOUR, to the amount determined in STEP THREE.

STEP FIVE: Subtract the amount determined in STEP FOUR from the amount determined in STEP ONE.

(f) As used in this section, a taxing unit's "determination year" means the latest of:

(1) calendar year 1987, if the taxing unit is treated as being located in an adopting county for calendar year 1987 under section 4 of this chapter;

(2) the taxing unit's base year, as defined in section 5 of this chapter, if the taxing unit is treated as not being located in an adopting county for calendar year 1987 under section 4 of this chapter; or

(3) the ensuing calendar year following the first year that the taxing unit is located in a county that has a county adjusted gross income tax rate of more than one-half percent (0.5%) on July 1 of that year.

The amount to be used in subsections (d) and (e) for a taxing unit depends upon the taxing unit's certified share for the ensuing calendar year, the taxing unit's determination year, and the county adjusted gross income tax rate for resident county taxpayers (as defined in IC 6-3.5-1.1-1) that is in effect in the taxing unit's county on July 1 of the year preceding the ensuing calendar year. For the determination year and the ensuing calendar years following the taxing unit's determination year, the amount is the taxing unit's certified share for the ensuing calendar year multiplied by the appropriate factor prescribed in the following table:

COUNTIES WITH A TAX RATE OF 1/2%

Year	Subsection (e) Factor
For the determination year and each ensuing calendar year following the determination year	0

COUNTIES WITH A TAX RATE OF 3/4%

Year	Subsection (e) Factor
For the determination year and each ensuing calendar year following the determination year	1/2

COUNTIES WITH A TAX RATE OF 1.0%

Year	Subsection (d) Factor	Subsection (e) Factor
For the determination year	1/6	1/3
For the ensuing calendar year following the determination year	1/4	1/3
For the ensuing calendar year following the determination year by two (2) years	1/3	1/3

SECTION 3. IC 6-3.5-9 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]:

Chapter 9. Inventory Tax Replacement Income Tax

Sec. 1. As used in this chapter, "adjusted gross income" has the meaning set forth in IC 6-3-1-3.5(a).

Sec. 2. As used in this chapter, "county council" includes the city-county council of a consolidated city.

Sec. 3. As used in this chapter, "county taxpayer", as it relates to a county for a year, means an individual who resides in that county on the date specified in section 14 of this chapter.

Sec. 4. As used in this chapter, "taxing unit" means an entity having the power to impose ad valorem property taxes, including school corporations. However, in the case of a consolidated city, the term includes the consolidated city and all special taxing districts, all special service districts, and all entities whose budgets and property tax levies are subject to review under IC 36-3-6-9.

Sec. 5. (a) The county council of a county that chooses to adopt an ordinance to phase out the property tax on inventory under IC 6-1.1-12.2 may impose an income tax on the adjusted gross income of county taxpayers.

(b) The county council shall use data compiled by the department of local government finance to determine the amount of deductions the department of local government finance estimates will be taken in the first year of the inventory tax phaseout and the initial income tax rate necessary to replace the net property tax revenue lost from the deductions in the first year. The county council may impose an income tax on each county taxpayer's adjusted gross income at an initial rate not to exceed the rate determined to be necessary to replace the lost net property tax revenue in the first year. The income tax rate must be rounded upward in one hundredth of one percent (0.01%) increments.

(c) To impose the income tax, the county council must, after

January 1 but before April 1 of a year, adopt an ordinance. The ordinance must substantially state the following:

"The ________ County Council imposes an inventory tax replacement income tax on the county taxpayers of ________ County to replace the revenue lost from providing an inventory tax deduction over the next ten (10) years. The income tax is imposed at an initial rate of _____ percent (_____%) on the county taxpayers. Every two (2) years for the next ten (10) years, the tax rate will automatically increase by the initial rate amount effective July 1. This tax takes effect July 1 of this year.".

(d) An ordinance adopted under this section takes effect July 1 of the year in which the ordinance is adopted.

(e) The county auditor shall record all votes taken on ordinances presented for a vote under the authority of this section and immediately send a certified copy of the results to the department of state revenue by certified mail.

Sec. 6. (a) The county council may decrease the inventory tax replacement income tax rate imposed upon the resident county taxpayers of the county. To decrease the rate, the county council must, after January 1 but before April 1 of a year, adopt an ordinance. The ordinance must substantially state the following:

"The ________ County Council decreases the inventory tax replacement income tax rate imposed upon the resident county taxpayers of the county from _____ percent (___%) to _____ percent (___%). This tax rate decrease takes effect July 1 of this year.".

(b) A county council may not decrease the income tax rate imposed under this chapter if the county or any commission, board, department, or authority that is authorized by statute to pledge the inventory tax replacement income tax has pledged the income tax for any purpose permitted by IC 5-1-14 or any other statute.

(c) An ordinance adopted under this section takes effect July 1 of the year in which the ordinance is adopted.

(d) The county auditor shall record all votes taken on ordinances presented for a vote under the authority of this section and immediately send a certified copy of the results to the department of state revenue by certified mail.

Sec. 7. (a) The income tax imposed by a county council under this chapter remains in effect until repealed.

(b) The county council may rescind the county income tax by

adopting an ordinance to repeal the tax after January 1 but before June 1 of a year.

(c) Any ordinance adopted under this section takes effect July 1 of the year in which the ordinance is adopted.

(d) The county auditor shall record all votes taken on ordinances presented for a vote under the authority of this section and immediately send a certified copy of the results to the department of state revenue by certified mail.

Sec. 8. (a) Except as provided in subsections (b) through (c), if the income tax imposed under this chapter is not in effect during a county taxpayer's entire taxable year, the amount of income tax that the county taxpayer owes for that taxable year equals the product of:

(1) the amount of income tax the county taxpayer would owe if the tax had been imposed during the county taxpayer's entire taxable year; multiplied by

(2) a fraction:

(A) the numerator of which equals the number of days during the county taxpayer's taxable year during which the income tax was in effect; and

(B) the denominator of which equals the total number of days in the county taxpayer's taxable year.

(b) If a county taxpayer:

(1) is unemployed for a part of the taxpayer's taxable year;

(2) was not discharged for just cause (as defined in IC 22-4-15-1(d)); and

(3) has no earned income for the part of the taxpayer's taxable year during which the tax imposed under this chapter was in effect;

the county taxpayer's adjusted gross income for the taxable year is reduced by the amount of the taxpayer's earned income for the taxable year for purposes of determining the amount of income tax that the county taxpayer owes under this chapter.

(c) A taxpayer who qualifies under subsection (b) must file a claim for a refund for the difference between the income tax owed under this chapter, as determined under subsection (a), and the tax owed, as determined under subsection (b). A claim for a refund must be on a form approved by the department of state revenue and include all supporting documentation reasonably required by the department of state revenue.

Sec. 9. (a) A special account within the state general fund shall be established for each county adopting the income tax under this

chapter. Any revenue derived from the imposition of the income tax under this chapter by a county shall be deposited in that county's inventory tax replacement account in the state general fund.

(b) Income earned on money held in an account under subsection (a) becomes a part of that account.

(c) Revenue remaining in an account established under subsection (a) at the end of a fiscal year does not revert to the state general fund.

Sec. 10. (a) Revenue derived from the imposition of the income tax under this chapter shall, in the manner prescribed by this section, be distributed to the county that imposed it. The amount to be distributed to a county during an ensuing calendar year equals the amount of income tax revenue under this chapter that the department of state revenue, after reviewing the recommendation of the budget agency, estimates will be received from that county during the twelve (12) month period beginning July 1 of the immediately preceding calendar year and ending June 30 of the ensuing calendar year.

(b) Before July 2 of each calendar year, the department of state revenue, after reviewing the recommendation of the budget agency, shall estimate and certify to the county auditor of each adopting county the amount of income tax revenue under this chapter that will be collected from that county during the twelve (12) month period beginning July 1 of that calendar year and ending June 30 of the immediately succeeding calendar year. The amount certified is the county's certified distribution for the immediately succeeding calendar year. The amount certified may be adjusted under subsection (c) or (d).

(c) The department of state revenue may certify to an adopting county an amount that is greater than the estimated twelve (12) month revenue collection if the department of state revenue, after reviewing the recommendation of the budget agency, determines that there will be a greater amount of revenue available for distribution from the county's account established under section 9 of this chapter.

(d) The department of state revenue may certify an amount less than the estimated twelve (12) month revenue collection if the department of state revenue, after reviewing the recommendation of the budget agency, determines that a part of those collections needs to be distributed during the current calendar year so that the county will receive its full certified distribution for the current

calendar year.

Sec. 11. (a) One-half (1/2) of each adopting county's certified distribution for a calendar year shall be distributed from its account established under section 9 of this chapter to the appropriate county treasurer on May 1 and the other one-half (1/2) on November 1 of that calendar year.

(b) All distributions from an account established under section 9 of this chapter shall be made by warrants issued by the auditor of state to the treasurer of state ordering the appropriate payments.

Sec. 12. A county's certified distribution must be distributed among all the taxing units located in the county that lost inventory tax revenue as a result of the inventory tax phaseout under IC 6-1.1-12.2. Each taxing unit's share of the distribution is the same percentage share of the lost revenue that is determined by the county auditor under IC 6-1.1-12.2-5. Taxing units must allocate money received under this chapter in the same manner as property taxes are allocated.

Sec. 13. (a) An adopting county is entitled to a state distribution to replace the state property tax replacement credits under IC 6-1.1-21 that the county will not receive as a result of providing an inventory assessed value deduction under IC 6-1.1-12.2. The amount of the distribution equals the following:

STEP ONE: Subtract the county's property tax replacement credit percentage computed under IC 6-1.1-21 from one (1).

STEP TWO: Divide the county's certified distribution by the STEP ONE amount.

STEP THREE: Multiply the STEP TWO amount by the county's property tax replacement credit percentage.

(b) The distribution shall be made to the county at the same time and in the same manner as property tax replacement credits are distributed under IC 6-1.1-21. The county shall treat the distribution as property tax replacement credits.

(c) There is annually appropriated from the property tax replacement credit fund the amount needed to make the distributions required by this section.

Sec. 14. (a) For purposes of this chapter, an individual shall be treated as a resident of the county in which the individual:

(1) maintains a home, if the individual maintains only one (1) home in Indiana;

(2) if subdivision (1) does not apply, is registered to vote;

(3) if subdivisions (1) and (2) do not apply, registers the

individual's personal automobile; or

(4) if subdivisions (1), (2), and (3) do not apply, spends the majority of the individual's time spent in Indiana during the taxable year in question.

(b) The residence of an individual is determined on January 1 of the calendar year in which the individual's taxable year commences. If an individual changes the individual's location of residence to another county in Indiana during a calendar year, the individual's liability for the income tax is not affected.

Sec. 15. (a) Except as otherwise provided in this chapter, all provisions of the adjusted gross income tax law (IC 6-3) concerning:

(1) definitions;

(2) declarations of estimated tax;

(3) filing of returns;

(4) remittances;

(5) incorporation of the provisions of the Internal Revenue Code;

(6) penalties and interest;

(7) exclusion of military pay credits for withholding; and

(8) exemptions and deductions;

apply to the imposition, collection, and administration of the tax imposed by this chapter.

(b) The provisions of IC 6-3-1-3.5(a)(5), IC 6-3-3-3, IC 6-3-3-5, and IC 6-3-5-1 do not apply to the tax imposed by this chapter.

(c) Notwithstanding subsections (a) and (b), each employer shall report to the department of state revenue the amount of withholdings attributable to each county. This report shall be submitted annually along with the employer's annual withholding report.

Sec. 16. Before February 1 of each year, the department of state revenue shall submit a report to each county treasurer indicating the balance in the county's inventory replacement tax account as of the end of the preceding year.

SECTION 4. [EFFECTIVE JULY 1, 2002] **IC 6-1.1-18.5-3, as amended by this act, and IC 6-1.1-12.2, as added by this act, apply to inventory assessments after December 31, 2002. IC 6-3.5-9, as added by this act, applies to taxable years beginning after December 31, 2002.**